A man with short brown hair and glasses, wearing a dark suit, light blue shirt, and a patterned tie, is shown in profile from the chest up. He appears to be speaking at a podium or during a presentation. The background is slightly blurred, showing text from a presentation slide.

**AN INTERVIEW
WITH THE
ATTORNEY GENERAL
FOR NORTHERN
IRELAND**

WELFARE REFORM

The key role of the advice sector

Assembly concerns

Bedroom tax

New benefit rates

Personal Independence Payment

Ombudsman Northern Ireland



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FRONTLINE 87

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KEY ROLE OF ADVICE MUST BE SUPPORTED



The Social Development Committee recently published its report on the Welfare Reform Bill. Among its rec-

ommendations is that additional resources should be made available to the independent advice sector, including local advice centres, up to April 2015 and beyond.

The report acknowledged the key role played by independent advice and the potential increase in demand likely to arise as a result of the changes contained in the Bill. It also noted that a £65 million fund had been created by the Cabinet Office and Big Lottery Fund to support advice services from April 2013 to April 2015.

In Northern Ireland the regional advice organisations (Advice NI, Citizens Advice and the Law Centre) are facing a reduction in core funding from the Department for Social Development of almost a fifth between April 2012 and March 2015. Local advice services, although better protected, are receiving no increase in funding through the community support grant to local councils from the Department. This is a reduction in resources in real terms.

The timetable for many of the key changes in welfare reform is being re-examined. The scale of the Path-

finder for Universal Credit from April 2013 is more modest than originally planned. Moreover, the timescale for the roll out in Britain from October 2013 onwards is nothing like as ambitious as initially envisaged.

The migration of working age claimants from Disability Living Allowance (DLA) to Personal Independence Payment (PIP) has also been changed so that many existing claimants will not be reassessed until at least October 2015. This is welcome, doubly so given Department for Work and Pensions figures which revealed that the number of claimants in Britain will drop by almost 600,000, from over 2.1 million if DLA had continued in its current form up until 2018 to 1.575 million as a result of the introduction of PIP. The drop in entitlement is not for those with severe disabilities, where the number of people on the highest component of both DLA and PIP is expected to remain about the same, but elsewhere among those currently receiving middle rate care with low rate mobility, middle rate care with higher mobility or lowest rate care with no mobility. DSD will be issuing its own figures for Northern Ireland shortly.

In Northern Ireland the demand for advice and representation is already increasing. By 30 September 2012, 6,200 appeals were lodged against decisions that claimants do not have limited capability for work as a result of the migration from Incapacity Benefit to Employment and Support Allowance (ESA). This is 62 per cent of claimants who did not reach the threshold for entitlement

‘proper planning to meet the needs for advice locally and regionally as Universal Credit, PIP and other changes commence will require a response from the Department sooner rather than later.’

to ESA. To date, tribunals have found in favour of claimants in 37 per cent of appeals. A similar response to the migration from DLA to PIP will lead to even greater demands for representation. In light of this, Belfast City Council’s recent initiative to fund additional tribunal representation posts at a local level is particularly welcome.

The Department has generally been supportive of advice services at both local and regional levels. The Department has not closed the door to looking at the demand and funding implications of welfare reform on the advice sector as the new regional funding arrangements through the Advice Services Consortium (Advice NI, Citizens Advice and the Law Centre) bed down. Nonetheless, proper planning to meet the needs for advice locally and regionally as Universal Credit, PIP and other changes commence will require a response from the Department sooner rather than later.

Les Allamby

Farewell Noreen

It was with tremendous sorrow that I learned of Noreen Docherty's death, or wee Noreen as she was affectionately called by the girls in admin. Noreen was a lovely woman. She was kind, considerate, caring and thoughtful. She may have been small in stature, but she had a big heart. When I last saw her, she had asked me to visit her at home. After she had chatted a little about how she was, what the doctors were doing etc, she said 'Oh, I've been talking about myself, never mind me, how's things with you' and began to ask about my family. That was just Noreen. Always thinking about someone else.

In work, Noreen was very attentive to callers, on the phone and in person. She was very helpful and would do her utmost to help everyone she came into contact with. She was meticulous with her postal duties and was methodical in her approach to her work. Noreen was very conscious of customer care and many an afternoon I would have gone into admin and the reception desk was empty. I would not have had to look

too far for Noreen. She usually was in a huddle in a corner of the room with someone who had called in looking for help. Noreen always brought callers into reception and gave them her undivided attention.

The reception desk is empty once again but our memories of Noreen will always live on.

Ann Cartwright,
Administration Manager, Law Centre (NI)

Noreen Doherty was a lovely woman. Decent, unassuming, dignified and devoted to her family, and also someone with a wicked sense of fun, as anyone who went for a drink with her on a staff do will know.

She was compassionate and always did her very best to help callers. She was well liked and respected by her colleagues. She dealt with the unfairness of her husband's and her own ill-health in typical undemonstrative fashion. She will be sorely missed by all of us who knew her.

Les Allamby,
Director, Law Centre (NI)



Noreen Docherty Photo: Deborah Hill.

Awards recognise professional and caring Law Centre



Staff show off the Law Centre's Lexcel and two IIP awards. Photo: Catherine Couvert

Law Centre (NI) has passed Lexcel reassessment. Lexcel is the Law Society's international practice management standard awarded to solicitors and legal services providers who meet the highest management and customer care standards.

The Law Centre has also been successful in achieving the new Investors in People Health and Wellbeing Award. This is in addition to being reaccredited for the IIP Core Standard and Bronze Award.

The assessment report commented: *'This Investors in People review has shown the Law Centre to be a dynamic and forward thinking organisation, with clear objectives and plans for future development and improvement.'*

Landmark High Court victory for long term patients

On 31 January, the High Court established the obligation on the DHSSPS and on health and social care trusts to regularly complete an assessment of need of all those who require community care services in Northern Ireland.

The Law Centre had brought the case on behalf of a patient who had waited more than ten years to move out of a learning disability hospital and into the community. *'We wanted to establish the extent of the Department's and Belfast Health and Social Care Trust's duties to assess and review community care needs in compliance with the People First guidance and work towards resettling people with a learning disability in the community,'* said Law Centre (NI) mental health legal adviser Catherine Harper.

Justice McCloskey found that the Department of Health, Social Services and Public Safety and Belfast Health and Social Care Trust owed a legal duty to assess and review, on a regu-



Catherine Harper, Law Centre (NI) mental health legal adviser. Photo: Catherine Couvert

lar basis, the community care needs of long stay residents in learning disability hospitals.

Welcoming the ruling, Maureen Piggott, Mencap's Northern Ireland director, commented: *'Mencap welcomes the decision and congratulates Law Centre (NI) for taking and*

winning this important case. People with a learning disability and their families need this strong advocacy.'

She added: *'This judgement (...) strengthens the position of those who are still waiting to move out of learning disability hospitals, but also those who need additional support to live with their family, or in their own homes in the community.'*

Northern Ireland Executive's First Programme for Government included a key goal that by 2013 anyone with a mental health problem or learning disability is promptly and suitably treated in the community and no one remains unnecessarily in hospital. This target has since been revised to 2015. It is hoped that the judgment will help ensure that this target becomes a reality.

The Law Centre has written to the Department and Trust seeking to know how the judgement will be put into practice.

Poverty and ethnicity in Northern Ireland

New research from the Joseph Rowntree Foundation

A new JRF study examines the evidence on how people across different ethnic groups in Northern Ireland experience poverty and how this affects their access to work and support, including key services.

People from minority ethnic groups are employed at all levels in the economy, but low-grade, low-paid employment appears commonplace, despite many having high qualifications and skills.

In-work and child poverty appear to be problematic, but to what extent people from minority ethnic groups receive benefits when eligible to claim is unclear.

There has been a focus on access to services, but little is known about education and health outcomes. Housing conditions may vary, but poor management by landlords, high costs and overcrowding are evident.

Despite positive policy changes, people from minority ethnic groups have experienced racism as service users, employees and pupils, with mixed responses from organisations, employers and schools.

Download the report from www.jrf.org.uk/publications/poverty-ethnicity-northern-ireland.

Equality Commission launches LGB microsite

The Equality Commission for Northern Ireland has launched a new microsite for Lesbian, Gay and Bisexual people in Northern Ireland: **www.SoMe.ni.co.uk**.

Speaking at the launch, Chief Commissioner Michael Wardlow said, 'Everyone has the right to lead a life free from discrimination, abuse or harassment. That's the law. However, about half the LGB people we surveyed told us they had experienced discrimination.'

This unique site includes information on rights, help available, discrimination FAQs, personal stories and info about what's happening in Northern Ireland for LGB people. It also features a live chat facility for those needing assistance and an anonymous reporting facility for those wishing to share their experiences.

Protecting tenants: new tenancy deposit scheme launched

*Housing Rights Service legal information officer **Sharon Geary** explains how the new tenancy deposit will work in practice.*

The number of people living in the private rented sector in Northern Ireland has increased steadily over the last number of years. In the current housing climate it is regarded by many as their main housing option, because they are unable to access social housing or buy their own home.

Greater protection

In light of this, from 1 April 2013, greater protection will be put in place for tenants' deposits through the operation of a new Tenancy Deposit Scheme. The Department for Social Development has appointed four independent scheme administrators to operate the Tenancy Deposit Scheme. These are My Deposits Northern Ireland, the Dispute Service Northern Ireland, Letting Protection Service (LPS) and Capita.

Two types of scheme

There will be two types of schemes in operation: custodial and insurance. Under both schemes the landlord must take action to protect the deposit through a scheme administrator within fourteen days of receipt of the deposit from the tenant. The landlord must also provide the tenant with specific information on the protection of the deposit within 28 days of having received the deposit. Each type of scheme has its own operational procedures.

Under a custodial scheme, the landlord passes on the tenancy deposit to the scheme administrator for safekeeping until there is agreement about its repayment at the end of the tenancy. Under an insurance scheme, the landlord retains the tenancy deposit but pays a fee for insurance protection to the scheme administrator.

Independent adjudicator

In all cases, if there is a dispute between the landlord and the tenant about how much of the deposit should be returned at the end of the tenancy, the matter can be referred to the dispute resolution mechanism which each scheme administrator will provide free of charge. An independent adjudicator will then assess

each of the parties' claims to the deposit and reach a decision based on the evidence put before them.

Find out more

For more information on the new tenancy deposit scheme, go to: www.housingrights.org.uk.

Human trafficking

On 2 March, the Law Centre held a fringe meeting on human trafficking at the Alliance Party Conference. The meeting was opened by Justice Minister David Ford and chaired by Anna Lo MLA.

Law Centre director Les Allamby welcomed the significant progress made in efforts to tackle human trafficking in Northern Ireland.

Highlighting the experience of the victims of trafficking that the Law Centre has represented, he stressed the importance of joined up approaches to ensure victims have access to expert legal advice and support services. He called on the Executive to ensure effective systems are put in place to monitor trafficking activity and to stamp out this modern day slavery.

Diane Kelly, Immigrant Council of Ireland's anti-trafficking coordinator, told delegates about Turn Off the Red Light, a campaign to criminalise the purchasing of sex and explained that the Republic's Justice Minister is considering whether to amend Irish law. A ministerial announcement is expected soon.

Immigrant Council research on the experiences of women who have been trafficked into Ireland for sexual exploitation is available at: www.immigrant-council.ie/images/stories/Trafficking_Report_FULL_LENGTH_FINAL.pdf



Anna Lo, MLA and Diane Kelly, anti-trafficking coordinator, Immigrant Council of Ireland.
Photo: Ursula O'Hare.

GUARDIAN OF THE RULE OF LAW

The Office of the Attorney General for Northern Ireland

*Interviewed by Les Allamby, **John Larkin QC**, Attorney General for Northern Ireland, explains his responsibilities and how he sees his role developing.*

Can you tell us what the key responsibilities of the Attorney General for Northern Ireland are?

Chief among my responsibilities as Attorney General is that of guardian of the rule of law in Northern Ireland. I serve as chief legal adviser to the Northern Ireland Executive. It is my responsibility to consider and advise on matters which are either of the greatest legal complexity or cut across the responsibilities of two or more Departments. I also advise in matters of political controversy or sensitivity. I act as the Executive's most senior representative in the courts and I have a separate role (linked to my chief responsibility) of protecting the public interest in the courts.

An interesting duty is to produce guidance for criminal justice organisations on the exercise of their functions in a manner consistent with *international* human rights standards.

I also have a range of functions with respect to the law and practice of charities which is the subject of a specific question below.

You have a number of ways of being able to intervene in the legislative process and legal proceedings. Could you give us an insight into your thinking when deciding to intervene?

My role in the legislative process is an interesting mixture of the statutory and non-statutory. Both aspects have, as a common purpose, a commitment to assisting with high quality law making in Northern Ireland.

By section 11 (1) of the Northern Ireland Act 1998 I may refer the question of whether any provision of a Bill would be within the competence of the Assembly to the Supreme Court. Accordingly, I give consideration to all Assembly Bills as they complete final stage.

My focus is most often on compliance with the ECHR and European Union law. Should I have competency concerns, no fixed criteria exist to determine whether or not any provision of a Bill should be referred to the Supreme Court.

Among the concerns that will weigh heavily with me is the desir-

ability for a speedy and authoritative determination of any legal question as to the validity of an Act of the Assembly that would, if a reference were not made, occupy considerable time in the Northern Ireland courts.

One of your important powers is to direct a coroner to either hold an inquest into a death where one has not been held or hold a further inquest. Can you tell us how you make such decisions?

At the core of the statutory test I apply in considering whether to direct a Coroner to hold an inquest is a consideration of whether it is 'advisable' to do so.

There are many circumstances that may be considered as sufficient to warrant my direction. These include the improper rejection of significant evidence by the previous inquest, insufficiency of inquiry or discovery of significant new evidence.

While there has been some publicity around my direction of inquests in relation to deaths which took place in our troubled past, I have also directed inquests for deaths which took place more recently in hospitals, including an inquest into a stillborn child.

You have played an active role in the protection of public interests in charity law. Could you tell us about your work to date in this field and how it will develop?

My responsibility for protecting the public interest extends specifically to the law of charities.

Where a matter is before the Charity Tribunal, I have power to intervene to represent the wider public interest. The Tribunal can also ask me to give a view on questions of law. I imagine my work in this area will develop as the Tribunal begins to sit. I also defend the interests of charities in proceedings before the High Court. Last year, I was party to twelve cases in the High Court concerning charities.

I also have a particular role in what is called the Royal Sign Manual procedure. This applies in cases where a donor has shown a clear intention that he or she wishes a gift to be given to charitable purposes but has not defined the particular charity they wish to benefit with sufficient clarity and no trust has been interposed. As Attorney General, I can issue a Sign Manual Direction curing a gift of its uncertainty by directing that it be given to one or more specific charities. Some local charities have benefited from this recently.

You have powers to refer a patient to the Mental Health Review Tribunal – a power unused to date. Can you tell us how you think this responsibility might be developed?

By Article 72 of the Mental Health (NI) Order 1986 I may 'at any time' refer



John Larkin QC, Attorney General for Northern Ireland, speaking at a conference on judicial independence jointly organised last year by the Law Centre and the Office of the Attorney General for Northern Ireland. Photo: John Rush.

the case of a patient to the Mental Health Review Tribunal.

I realise that many patients already access the tribunal with the assistance of lawyers, advocates or social workers. However, this provision is potentially a valuable safeguard in protecting the liberty of persons detained under the Order and I am happy to hear ideas on how it can best be used.

It might, for example, be possible to use this route in the interests of speed (and perhaps costs) rather than apply for judicial review of a tribunal decision.

The current welfare reform bill is of great interest to Frontline readers. Without revealing your legal advice, could you tell us about the role of the Office in advising on the Bill?

I will be formally considering the Welfare Reform Bill when it is referred to me by the Speaker. My role then will be to form a view on whether the Bill is within the competence parameters set out in section 6 of the Northern Ireland Act 1998. In accordance with the usual convention I cannot, of course, say whether

Continued on page 26

TRIBUNAL REFORM

Time for change



*Law Centre (NI) assistant director (policy and publications) **Ursula O'Hare** sets out the process of the DoJ's consultation on tribunal reform.*

Tribunal reform is unlikely to grab any headlines. This is a shame because

how tribunals

work has a greater impact on the public than many other aspects of the civil justice system.

In January, the Department of Justice launched a consultation on proposals for tribunal reform in Northern Ireland at a conference organised by the Law Centre and University of Ulster. Reform is long overdue. As the following articles by Michael Adler and Gráinne McKeever point out, a good gauge of the meaningfulness of reform is whether it encompasses effective oversight arrangements and enhances user participation.

The Department proposes a two staged reform process. This consultation focuses on structural reform by proposing a single 'Appeal Tribunal' for those tribunals already under the management of the Department of Justice. Other tribunals will be brought into the reform process at a later date.

Stage two of tribunal reform will begin later in 2013 with a promised consultation on access to advice and representation. Tribunal reform is ultimately about ensuring better access to justice. Structural change matters but the real prize is that reform makes a positive difference to those who use the system.

FILLING THE ACCOUNTABILITY DEFICIT

The case for an advisory body in Northern Ireland



***Michael Adler** is Emeritus Professor of Socio-Legal Studies at the University of Edinburgh and a member of the Scottish Committee of the Administrative Justice and Tribunals Council. Here, he makes the case for Northern Ireland to adopt an oversight system for administrative justice akin to the model envisaged in Scotland and Wales.*

Opposition to the abolition of the AJTC

The Public Bodies Act 2011, which gave the Westminster government the power to abolish, merge or change the functions of certain public bodies by secondary legislation, received its Royal Assent on 14 December 2011 and the Administrative Justice and Tribunals Council (AJTC) was listed in Schedule 1 as a body which ministers could, by Order, abolish. The Ministry of Justice (MoJ) ran a public consulta-

tion on the future of the public bodies it sponsored, including the proposal to abolish the AJTC in 2011. 41 of the responses referred to the proposal to abolish the AJTC.

A large majority of the respondents were opposed to the abolition of the AJTC. Respondents drew particular attention to the AJTC's strength as 'an independent organisation that exercises a UK-wide overview of the administrative justice system', its role as a forum for bringing together

disparate parts of the administrative justice system, and its function of representing the interests of users. Many of them were also concerned that, in the event of abolition, the functions of the AJTC could not be adequately covered by MoJ.

No doubt due to its reluctance to support the retention of a UK-wide body, the Scottish government was 'content' with the proposed abolition. However, the Welsh government (which was engaged in a programme of tribunal reforms) expressed a preference 'for the AJTC to continue, in respect of the functions it exercises in Wales, until such time its programme of tribunal reform is at a sufficiently advanced stage'.

MoJ disagreed with the concerns expressed by most of the respondents to its consultation, and decided to proceed with the abolition of the AJTC, stating that 'The department itself is capable of providing the required oversight of the administrative justice system and its officials can provide ministers with the impartial, balanced, objective and expert advice necessary to develop effective policy in this area.'

Accountability deficit

The legislation to abolish the AJTC is currently before Parliament (*Editor's*



Speakers at Tribunal Reform – the Way Ahead L-R: Dame Hazel Genn, Dean of Laws and Co-Director of the UCL Judicial Institute in the Faculty of Law at University College London, Gráinne McKeever, University of Ulster School of Law, Sir Patrick Coghlin, Lord Justice of Appeal, David Lavery, Director of Access to Justice, DOJ, Brian Thompson, University of Liverpool and Professor Michael Adler, University of Edinburgh. Photo: John Rush

note: the House of Lords has since recommended that the Ministry of Justice reconsider abolition, therefore at time of publishing there is a temporary reprieve). Meanwhile, the Scottish and Welsh governments have both announced that, in the event of abolition, they propose to establish a non-statutory advisory body to carry out most of the functions of the AJTC within their jurisdiction. In Northern Ireland, as part of the consultation on tribunal reform, the Justice Minister has proposed the creation of a new non-statutory advisory body to keep the reformed tribunal system in Northern Ireland under review. Thus, within the foreseeable future, a situation could arise in which administrative justice is held to account by a body independent of government in Scotland, Wales and Northern Ireland but not in England, creating a potential ‘accountability deficit’.

There is also a potential for a further accountability deficit if the functions of the oversight body are limited, raising the question of the remit of such a committee. If it were modelled on the AJTC, its characteristics would include:

- keeping the administrative justice system under review and undertaking independent scrutiny and observation of tribunal hearings;
- providing a ‘user-focused’ perspective on the system and considering ways to make it more accessible, fairer and more efficient;
- reporting publicly, in an inde-

pendent and fearless way, on issues affecting the administrative justice system, and on proposals that would affect it;

- advising ministers on the development of the system and referring proposals for change to them.

It would be preferable if the remit of an advisory body embraced the wider administrative justice system and was not limited to tribunals. Tribunals are undoubtedly an important means for resolving disputes but the administrative justice system, which comprises the end-to-end process that begins with an administrative decision and ends, in only a relatively small minority of cases, with the decision of an ombudsman, a tribunal or a court, clearly has much wider scope. It is this which needs to be kept under review.

The UK government claims that the MoJ can carry out all the functions that were carried out by the AJTC and that, for this reason, the AJTC is effectively redundant. However, this is highly questionable. The administrative justice system is extremely complex, its component parts frequently ignore the interests of users and fail to deliver justice, and they are often in need of co-ordination. Independent scrutiny of the system by a body of experts with a remit such as the one outlined above is the best way of ensuring that the administrative justice system meets the needs and promotes the interests of the large number of people who come into contact with it. The idea

that one government department, even if it was committed to the task and had the resources to carry it out, could effectively police numerous other government departments and thereby promote the interests of those on the receiving end of administrative decisions is pretty far fetched. If taken seriously, it would involve the MoJ in numerous ‘turf wars’ with other public bodies and would always run the risk of being set aside in light of what are regarded as ‘more pressing matters of state’.

A non-statutory body for Northern Ireland

The Scottish and Welsh governments have accepted the case for establishing non-statutory advisory bodies to carry out most of the functions of the AJTC and it is very much to be hoped that the Northern Ireland government will follow suit. If it did, the advisory committees in the three devolved parts of the UK could meet from time to time to share their experiences and their example might even persuade a future government in London to set up some similar machinery for England. Without the creation of an effective oversight body for administrative justice in Northern Ireland, and the continuation of such a body for England, ‘users’ of the administrative justice system in Northern Ireland and England will lack a champion and, as a result, could well be at a substantial disadvantage compared to their counterparts in Scotland and Wales.

OVERCOMING BARRIERS

The need for 'user-friendly' tribunals

Gráinne McKeever, senior lecturer at the School of Law, University of Ulster, calls for tribunal reform to create a system that enables users to overcome barriers to access to justice.



At face value the consultation paper on tribunal reform does not deal specifically with users, although the paper promises a further consultation in 2013 on

proposals for pre-hearing advice and representation, following on from the recommendations of the Access to Justice Review.¹ Nonetheless the user is the reason why tribunals are to be reformed. The ambition for a user-friendly tribunal is repeated throughout the consultation paper and underlines the need for an independent, coherent system that enables users to overcome any real or perceived barriers to accessing justice.

Overcoming barriers

The barriers faced by users at tribunals have been well evidenced, but more work is required to understand how these barriers may be overcome to enable users to participate in dispute resolution procedures. We know from the research with users that there are different forms of participation experienced by tribunal users.

Rather than viewing participation as a single experience (either 'participative' or 'not-participative') user participation can be understood as a range of experiences. Adapting the analogy of a ladder of participation, we can chart the different categories (or rungs) of participation that exist.² The practical benefits of this allow us to identify the operational indicators for each of the rungs of this ladder of legal participation.

Participation therefore can be identified as ranging from an ena-

bling experience – where tribunal members help users set out their case, where users have access to good advice and representation, where decision makers can resolve their dispute at the earliest possible stage – to a placatory form of participation – where user information is not user-friendly, or where decision makers do not systematically utilise informal dispute resolution procedures – to an isolating experience – where users have no support to help them resolve their case.

Being able to see where current practices sit on the ladder, with a view to identifying and, if necessary, addressing participative gaps, can potentially help us to enhance the tribunal user's ability to access justice.

Research findings

Professor Dame Hazel Genn has completed a major research project examining how tribunal decisions are made, funded by the Nuffield Foundation.

Some of the research findings were presented at the tribunal reform conference in January, and revealed some startling insights into how the tribunal panel's perceptions of the appellant and his/her evidence impacted on their decision.

For example, it emerged that the panel reviewing a claim for Disability Living Allowance for a child placed significant weight on the report from the child's school, but there is little evidence that schools are aware of the importance of what they report, or receive any training in how their report may be used.

The report on this research is available on the Nuffield Foundation's website.³



Launching the consultation on tribunal reform, University of Ulster Vice Chancellor Professor Richard Barnett, Gráinne McKeever, Minister for Justice David Ford MLA and Les Allamby. Photo: Alastair Nevin

Notes

- 1 Para. 3.23
- 2 The ladder analogy is adapted from Sherry Arnstein's "Ladder of Participation", which remains a leading authority on political participation.
- 3 www.nuffieldfoundation.org/sites/default/files/files/Tribunal_decision_making_vFINAL.pdf

WELFARE REFORM BILL

Social Development Committee has deep concerns

Georgina Ryan-White, policy officer at Law Centre (NI), summarises the Social Development Committee's concerns and recommendations on the Welfare Reform Bill.



The Social Development Committee's report on welfare reform represents the culmination of an arduous period of scrutiny by

the Committee and evidence sessions from the advice sector, disability groups, the community and voluntary sector, trade unions and church leaders. It has been welcomed by many sources and echoes many of the concerns articulated by stakeholders in previous months.

The Committee agreed with the general principles of the Bill that the benefit system should be simplified, that work should always pay and that those capable of working should be better off in work.

However, the Committee shared a number of concerns and reservations raised by stakeholders about particular measures and how they might impact negatively on vulnerable groups and individuals.

The Committee sought to identify key issues and mitigate the impact of the Bill by opposing certain clauses as currently drafted and seeking flexibilities from the Department for Social Development.

Key recommendations

- The Committee felt that Clause 4, which introduces the joint claim-

ant commitment, was inherently unfair when no payment is made to either partner where one member of the couple refuses to sign as part of a joint claim. The Committee seeks to address this anomaly by recommending that the member who is willing to sign should be treated as a single claimant.

- It was also concerned that Universal Credit will consist of a single household payment which could potentially have a negative impact on the financial independence of women and, therefore, impact adversely on children. Although the Committee had originally intended to draft an amendment to address this issue, it instead recommended that the criteria for split payments should give priority to determining how payments can be made to ensure the financial independence of women and to protect the interests of children.
- The Committee opposed the introduction of higher level sanctions of up to three years, under Clause 26, recommending that the Minister explore the possibility for varying the sanctions regime from that of Department for Work and Pensions.
- The Committee felt that the time limiting of ESA to 365 days under clause 52 represented a clear erosion of the national insurance principle. Although the cost of not implementing this measure is approximately £3 million per month, the Committee was not content to agree to this clause as drafted. The Committee recommended that the

Minister discuss with the Executive making funds available to extend the period of contribution-based ESA beyond twelve months. The Committee listened to serious concerns about the removal of Youth ESA under Clause 54 and its impact on young people with disabilities. Given the £390,000 costing per year for this measure, the Committee recommended that the current arrangements be maintained.

- Clause 69 which introduces the 'bedroom tax' was repeatedly raised as a serious concern by stakeholders and the Committee given Northern Ireland's limited housing stock. The Housing Executive advised that 26,000 claimants would be affected by this measure, while NIHFA warned that 6,500 housing association tenants would be deemed as under-occupying. Given the strong evidence presented to the Committee, it opposed this clause completely.
- The Committee recommended that additional resources are made available to the independent advice sector to ensure that all benefit claimants can access independent advice relating to the new system.

A significant step

The Committee's recommendations signify a significant step towards tailoring welfare reform to Northern Ireland's specific circumstances. The Department has provided costings for a number of these recommendations, enabling the Committee to request the Minister to explore with the Executive Committee how they might be funded.

Committee Chair Alex Maskey stated that the Committee will continue to press the Minister to take on the recommendations and to effect change where possible.

More must be done

The Welfare Reform Bill will transform the welfare state and our MLAs must ensure that the changes will work effectively in practice for Northern Ireland. Moreover, the Assembly must do more to ensure the Bill incorporates measures to protect the most vulnerable when it returns to the floor of the Assembly for Consideration Stage after the Easter recess.

BENEFITS & TAX CREDITS

2013–2014

For Northern Ireland only – from 6 April 2013 except where stated otherwise

MEANS TESTED

INCOME SUPPORT AND INCOME BASED JSA

PERSONAL ALLOWANCES

single

under 25	£56.80
aged 25 or over	£71.70
lone parent	
under 18	£56.80
aged 18 or over	£71.70

couple

both under 18*	£56.80
both under 18, with child	£85.80
one under 18 one under 25	£56.80
one under 18 one over 25	£71.70
both aged 18 or over	£112.55

* for more details of rates for under 18s, see Law Centre (NI) Encyclopedia of Social Welfare Rights or the CPAG handbook 2013–2014

dependent children (pre April 2004 claimants)	
birth to day before 20th birthday	£65.62

PREMIUMS

family	£17.40
pensioner	
couple	£109.50
single (JSA only)	£73.70

disability

single	£31.00
couple	£44.20

enhanced disability

single	£15.15
couple	£21.75
child	£23.45

severe disability

per qualifying person	£59.50
carer	£33.30

DEDUCTIONS FOR NON-DEPENDANTS (MORTGAGE INTEREST)

aged 18, or over, and in remunerative work	
gross income	
£124 – £182.99	£31.25
£183 – £237.99	£42.90
£238 – £315.99	£70.20
£316 – £393.99	£79.95
£394 and above	£87.75

Others, aged 18 or over and not in work or earning less than £124 or on IS or Income-based JSA and 25 or over or in receipt of Pension Credit or on main phase income related ESA (ie after 13 weeks) £13.60

Note: Disregards for rates are covered in Housing Benefit.

DEDUCTIONS

child maintenance (standard)	£7.20
child maintenance (lower)	£3.60
finer (standard / lower)	£5.00 / £3.60
direct payment of fuel (5% rate)	£3.60
housing and rates arrears	£3.60
strikers	£39.00
recovery of ordinary overpayment	£10.80 (max)
recovery if convicted of fraud	£18.00 (max)

DISREGARDS

earnings – single	£5.00
earnings – couple	£10.00
earnings – lone parent or in receipt of carer's / disability premium	£20.00
war pensions, War Widows Pension and Widowed Parent Allowance	£10.00
student loan	£10.00
student's covenanted income	£5.00
income from boarders (plus 50% of the balance of the charge)	£20.00
income from sub tenants	£20.00

voluntary and charitable payments, child maintenance, DLA and AA ignored in full

SURE START MATERNITY PAYMENT £500

(where baby is the only child under 16 in the household, or in some cases where there is a multiple birth)

COLD WEATHER PAYMENT £25.00

CAPITAL LIMITS

disregard	£6,000
resident of care home, disregard	£10,000
upper limit	£16,000
child upper limit	£3,000
tariff income on capital between disregard and upper limit is £1 for every £250 or part thereof	

INCOME RELATED EMPLOYMENT & SUPPORT ALLOWANCE (ESA)

same as IS, except:

PERSONAL ALLOWANCES

couple

both under 18 (after 13 weeks)	£71.70
both under 18 with child (after 13 weeks)	£112.55
one 18 or over, one under 18 (certain conditions apply)	£112.55

PREMIUMS

pensioner

single with work related activity component (WRAC)	£45.25
single with support component	£38.90
single with no component	£73.70
couple with WRAC	£81.05
couple with support component	£74.70
couple with no component	£109.50

COMPONENTS (from week 14 – main phase)

work related activity	£28.45
support	£34.80

HOUSING BENEFIT: RENT

APPLICABLE AMOUNTS – ie personal allowances and premiums

as for IS except:

personal allowance

couple – both under 18	£85.80
couple – one under 18	£112.55
single person on main phase ESA	£71.70
couple, claimant entitled to main phase ESA	£112.55
family premium	£17.40
lone parent rate*	£22.20

*only if entitled to this premium prior to 1998

pensioner personal allowances

single aged 60–64	£145.40
couple – one or both 60–64	£222.05
single / one parent aged 65 or over	£163.50
couple – one or both 65 or over	£244.95

AMENITY DEDUCTIONS

heating	£25.60
hot water	£2.95
lighting	£2.05
cooking	£2.95

MEALS DEDUCTIONS

full board (3 or more meals a day)

each person aged 16 or over	£25.85
each child under 16	£13.10

half board (less than 3 meals a day)

each person aged 16 or over	£17.20
each child under 16	£8.65

breakfast only

each person (including children)	£3.15
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NON-DEPENDANT DEDUCTIONS

same as IS, except: no deductions for non-dependants on IS or JSA (IB) & under 25, on Pension Credit or on main phase ESA (IR)

EARNINGS DISREGARDS

permitted work (lower)	£20.00
permitted work (higher)	£99.50
lone parent – not in receipt of IS	£25.00
where the claimant has a partner	£10.00
single claimant	£5.00
where carer or disability premium awarded	£20.00

CHILDCARE COSTS

1 child	70% up to £175.00
2 or more children	70% up to £300.00

OTHER INCOME DISREGARDS

maintenance	£15.00
child maintenance	ignored in full
war pensions	£10.00
Widowed Parent's Allowance	£15.00
student loan	£10.00
student's covenanted income	£5.00
additional earnings disregard	£17.10
income from boarders (plus 50% of the balance of the charge)	£20.00
income from sub tenants	£20.00
voluntary & charitable payments, DLA and AA	
ignored in full	

CAPITAL LIMITS

same as IS, except:

Capital limit for Housing Benefit claimants above qualifying age for Pension credit is £16,000

Tariff income on capital between £10,000 disregard and £16,000 upper limit is £1 for every £500 or part thereof if aged 60 or over.

No upper limit if on Pension Credit guarantee credit.

HOUSING BENEFIT: RATES

PERSONAL ALLOWANCES AND PREMIUMS

as for rent except that personal allowances are not payable for young people aged 16 and 17

NON-DEPENDANT DEDUCTIONS

aged 18 or over, and in remunerative work

gross income	
£394 or more	£9.90
£316 - £393.99	£8.25
£183 - £315.99	£6.55
under £183	£3.30
others (for whom deduction made)	£3.30
no deductions for non-dependants on IS, JSA (IB), Pension Credit or ESA (IR)	

CAPITAL DISREGARDS, TARIFF INCOME, EARNINGS & OTHER DISREGARDS

Note: disregards for rates also apply for owner occupiers on IS, JSA (IB) and ESA (IR). Non dependant deductions for rent are as per mortgage interest deductions.

PENSION CREDIT [Key figures only]

standard minimum guarantee

single	£145.40
couple	£222.05

additional amounts

severe disability (per qualifying person)	£59.50
carer	£33.30

savings credit

threshold single	£115.30
threshold couple	£183.90
maximum single	£18.06
maximum couple	£22.89

capital

disregarded	£10,000
tariff income	£1 for each £500 above
no upper capital limit	

housing costs

deductions for non-dependants	as for IS
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disregards

as for IS generally

deductions

as for IS except no reduction for strikers

NON MEANS-TESTED

[KEY FIGURES ONLY]

ATTENDANCE ALLOWANCE

higher rate	£79.15
lower rate	£53.00

BEREAVEMENT ALLOWANCE

aged 45 - 54	£32.49 to £100.72
standard rate	£108.30

WIDOWED PARENTS ALLOWANCE

Bereavement payment	£2,000
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CARER'S ALLOWANCE

increase for adult dependant (some existing claimants only)	£59.75
Earnings limit	£35.15
	£100.00

CHILD ADDITION*

(some existing claimants only)	£11.35
* Reduced to £8.10 for eldest or only child where Child Benefit is paid.	

CHILD BENEFIT

only or eldest child	£20.30
other child(ren)	£13.40
Reduced by 1% per £100 income over £50,000	

CONTRIBUTORY ESA

week 1-13 (assessment phase)

under 25	£58.80
25 or over	£71.70

components - from week 14 (main phase)

WRAC	£28.45
support component	£34.80

CONTRIBUTION BASED JSA

under 25	£56.80
25 or over	£71.70

DISABILITY LIVING ALLOWANCE

care component

higher	£79.15
middle	£53.00
lower	£21.00

mobility component

higher	£55.25
lower	£21.00

EARNINGS RULES

permitted work earnings limit for incapacity for work benefits (higher)	£99.50
incapacity for work benefits (lower)	£20.00

GUARDIAN'S ALLOWANCE

	£15.90
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INCAPACITY BENEFIT

short-term (under pension age)

lower rate	£76.45
higher rate	£90.50
adult dependant	£45.85

short-term (over pension age)

lower rate	£97.25
higher rate	£101.35
adult dependant	£56.65

long-term

adult dependant	£101.35
	£58.85

increase of long-term for age

lower rate	£6.00
higher rate	£10.70

INVALIDITY ALLOWANCE (transitional)

higher rate	£10.70
middle and lower rates	£6.00

INDUSTRIAL DEATH BENEFIT (widow's pension)

lower rate	£33.05
higher rate	£110.15

INDUSTRIAL INJURIES DISABLEMENT PENSION

max lump sum	£10,730
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18 or over or under 18 with dependants

from 100% assessment	£161.60
to 20% assessment	£32.32

reduced earnings allowance (max)	£64.64
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MATERNITY ALLOWANCE

standard rate	£136.78
MA threshold (for variable rate)	£30.00

PERSONAL INDEPENDENCE PAYMENT

[planned for June 2013 - will be delayed]

daily living

standard rate	£53.00
enhanced rate	£79.15

mobility

standard rate	£21.00
enhanced rate	£55.25

RETIREMENT PENSIONS

single person (category A and B)	£110.15
spouse* or adult dependant (retirement)	£63.20
spouse* insurance (category B)	£66.00
over 80 age addition (retirement)	£0.25
category C and D	£66.00

* spouse = husband, wife or civil partner

SEVERE DISABLEMENT ALLOWANCE

basic rate	£71.80
adult dependant	£35.35

age-related addition

higher rate	£10.70
middle rate and lower rates	£6.00

STATUTORY ADOPTION PAY, STATUTORY MATERNITY PAY, STATUTORY PATERNITY PAY

standard rate	£136.78
earnings threshold	£109.00

STATUTORY SICK PAY

standard rate	£86.70
earnings threshold	£109.00

WIDOWS PENSION / WIDOWED MOTHERS ALLOWANCE (standard)

	£108.30
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TAX CREDITS

WORKING TAX CREDIT (per year unless stated)

threshold	£6,420
withdrawal rate	41%
basic element	£1,920
30-hour element	£790
couple and lone parent element	£1,970
disabled worker element	£2,855
severe disability element	£1,220
increase in income disregard	£5,000

childcare element

70% of weekly cost for 1 child up to costs of	£175
70% of weekly cost for 2 or more children up to costs of	£300

CHILD TAX CREDIT (per year)

threshold (entitled to CTC but not WTC)	£15,910
withdrawal rate	41%
family element	£545
child element (per child)	£2,720
disabled child element (in receipt of DLA)	£3,015
severely disabled child element (in receipt of DLA higher rate care component)	£1,220

UNSETTLED

The implications of the bedroom tax in Northern Ireland

Nicola McCrudden, policy and communications manager at Housing Rights Service, considers the human cost of Clause 69 of the welfare reform bill which will penalise people in social housing who are considered to be under-occupying. She calls for mitigating measures that will reflect the disproportionate impact on Northern Ireland.



Thankfully, most people in Northern Ireland have a home. Home provides us with sense of safety and belonging – both physically and emotion-

ally. The longer you live somewhere the more likely you are to ‘put down roots’, giving a sense of neighbourhood and community. Home can also bring stability which in itself contributes towards sustainable communities. It is difficult therefore to understand why government would want to introduce policy which could potentially uproot people from their homes and communities. Particularly at a time when affordable, rented housing is scarce.

Welfare reform agenda

Housing Rights Service provides advice to families and individuals who are in housing need. Some are homeless, while others are at risk of losing their homes. We are already seeing growing numbers of households struggling to pay for their accommodation or living in poor, unsuitable or crowded conditions. Our advisers do their best to find positive outcomes for clients. However, this is becoming increasingly challenging and frustrating.

The reform of the welfare system during a prolonged recession is having a negative impact on many people’s housing circumstances locally. To date, cuts to Housing Benefit have focused primarily on reducing private tenants’ entitlements, in a bid to reduce public expenditure on benefit paid to landlords (unfortunately, this has not translated into corresponding rent reductions). The Welfare Reform agenda is now turning its attention to social housing (i.e. Housing Executive and registered housing associations). Through the Welfare Reform Act under occupancy penalties, commonly known as the ‘bedroom tax’¹, are

about to be implemented in Britain from April. In Northern Ireland, the equivalent legislation has yet to be passed and therefore a date for implementation is still unknown.

Bedroom tax and Northern Ireland

If introduced, the ‘bedroom tax’ will affect almost 33,000 Northern Ireland households. It will apply to social housing tenants with at least one bedroom in excess of their requirements. Tenant claimants who are under-occupying will no longer receive Housing Benefit to cover the full rent.

For some it will mean huge shortfalls; fourteen per cent if under-occupying by one bedroom and 25 per cent for two or more bedrooms. The average weekly loss for Housing Executive tenants will be £8.25 (one room) and £14.70 (two rooms or more) and for Housing Association tenants will be £9.42 (one room) and £17.48 (two rooms or more). According to the Chartered Institute of Housing, 62 per cent of working age social housing tenants in Northern Ireland will be affected, compared with 33 per cent across Britain.

Housing Rights Service is already being contacted by social housing tenants who are very anxious about the ‘bedroom tax’. Many of these

CASE STUDY

Brian is single and in his 40s. He contacted Housing Rights Service a few months ago when he heard about the bedroom tax being reported in the media. Brian lives in a three bedroom housing association property which he moved into ten years ago, when his relationship ended. Brian has equal access to his three children who stay with him three nights a week. Their mum, Joanne, has mental health issues and shared care of the children provides her with respite which has been recommended by her GP. Joanne claims Child Benefit and Child Tax Credit.

If the bedroom tax comes in Brian, as a single person, will be considered to have two bedrooms in excess of his requirements. He will lose 25 per cent of his Housing Benefit entitlement. That will leave him with a shortfall of £17 per week.

Brian is paying back a Social Fund loan which he took out to buy essential equipment required for his daughter’s GCSE. He is paying this off at £3.50 per week.

His income will be down to £47 a week. Out of this, he has to feed and provide heating and electricity for himself and three children, three days per week.

This simply is not an option for Brian. He fears for his future and the possibility that he might not be able to sustain the shared access arrangements for his children.



Photo: Catherine Couvert

tenants have lived in the same home for a considerable period of time and cannot understand why they should suddenly be asked to pay more or move out. Extra bedrooms are considered to be a luxury by the UK government. However, this viewpoint simply overlooks individual circumstances.

Concessions

There has been much talk at both national and local level about the 'bedroom tax'. Even at the time of writing the debate was raging in Westminster. Prime Minister David Cameron was presented with the plight of foster carers; armed service families; people approaching retirement age; people who need a spare room on health grounds; and those who rely on family/neighbours. On 12 March, the Secretary of State for Work and Pensions announced that

foster carers will not be penalized for an additional room if they have fostered a child or been approved as foster carers in the past twelve months. Parents of members of the armed forces will also be exempt from the bedroom tax and will not be subject to non-dependant deductions while their son or daughter is away on duty. In addition, in response to a court challenge, the government has accepted that families of disabled children who need a spare room on health grounds will also be exempted.³

MPs are queuing up to highlight policy contradictions.

For example, DUP MP Jim Shannon said he had spent 20 years as a councillor working to upgrading one-bed bungalows to two bedrooms only to find that the very thing he pushed for has now to be turned back.

Despite huge pressure from lobby groups, there are no firm commitments from the UK government to make further concessions before 1 April 2013. Commentators, however, are of the opinion that more concessions will come and we continue to support Northern Ireland MPs' efforts in helping this to happen.

Social Development Committee's recommendations

Following deliberations in Northern Ireland, the Committee for Social Development has recommended that the 'bedroom tax' (Clause 69 Welfare Reform Bill) should not be implemented. Committee members

'The reform of the welfare system during a prolonged recession is having a negative impact on many people's housing circumstances locally'

are aware of the implications of this decision. The associated cost to the Stormont Executive is £18m should this recommendation be adopted.⁴

However, this needs to be balanced against the loss of rent to social housing providers through arrears accrual and the cost of rehousing potentially 33,000 households, including temporary accommodation costs. Ultimately the decision will be made at Executive level. We are encouraged to see that the DSD Minister Nelson McCausland is taking the Committee's recommendation to the Northern Ireland Executive for consideration '*...in the context of a re-examination of Executive spending priorities*'.

Northern Ireland circumstances

We can only remain hopeful that the Committee's position will be endorsed by the Northern Ireland Executive. This would undoubtedly be the best outcome for the tenants and landlords affected. If, however, this is not achievable we would urge the Executive to make amendments to the Welfare Reform Bill. Evidence shows that the impact on social housing tenants in Northern Ireland will be disproportionately higher than in Britain. Not only are there fewer smaller units of social housing, but the segregated nature of our housing may well further restrict people's ability to relocate to areas where accommodation might be available.

Delays in the implementation of the Welfare Reform Bill are buying Northern Ireland some 'wait and see'

Continued on page 18

time. Given that Northern Ireland will have a much bigger challenge dealing with under-occupation, we would ask the Executive to use this time to consider practical amendments to mitigate against its impact.

In our view, realistic options would include introducing the 'bedroom tax' for new tenancies only and/or limiting its application to those under-occupying by two or more rooms. Both scenarios would enable the better targeting of the Discretionary Housing Payment resource.

Homes and communities

It is important not to lose sight of the fact that this is about people's homes. Many have lived in the same property for decades, as secure tenants, on the understanding that they could remain there even after their children moved out. Naturally tenants have established community and family links and have invested significant amounts of time and money into their homes.

It seems grossly unfair to force households who cannot pay the shortfall to move out, with absolutely no guarantee of suitable affordable alternative housing.

It is difficult to put a price on homelessness, but even more difficult to quantify or justify the human impact – especially if it can be avoided.

More information

Email: Nicola@housingrights.org.uk
Twitter: @housingrightsNI

Notes

1. Under Clause 69 (the 'bedroom tax'), one bedroom would be allowed for each of the following: an adult aged sixteen or over; an adult couple; two children of the same sex under sixteen; two children aged under ten regardless of their sex; a single child; a carer who does not normally live with the claimant if s/he or partner needs overnight care.
2. Committee for Social Development Report on the Welfare Reform Bill (NIA Bill 13/11-15) 28 February 2013.
3. Amended regulations were introduced in Britain on 1 April 2013.
4. *ibid* 2.

Debt Action NI

Debt Action NI is an integrated debt advice service delivered by Advice NI in partnership with PayPlan, one of the UK's largest providers of free-to-client debt advice. Funded by DETI NI, it aims to help the most vulnerable take back control of their finances. Since operations began in August 2012, the service has helped over 3,000 clients deal with £54 million of debt, an average of £18,006 per person including mortgage debt. The project will run until 2015.

This innovative service offers a range of access channels to help more people cope with rising levels of debt.

Face to face advice is offered from over 40 outlets across Northern Ireland, a text service and freephone telephone service are accessible 365 days of the year and a virtual adviser service is available online Monday to Friday.

The Debt Action NI website has an online budgeting tool, a debt help request form and assisted self-help option. The self-help option will ensure that those who are more capable of approaching their debt are supported with information and resources to negotiate with creditors and tackle their situation on their own.

Fiona Magee, Deputy Chief Executive of Advice NI, said the most common type of debt for clients was credit card debt followed by personal loans, catalogue debt and overdrafts. One major problem for people is the fact that they owe money to many different creditors. 'We can help by providing advice and support on managing repayments, negotiating with creditors and assisting at court. One key element of the new service is a way to help pay off multiple creditors through a 'single disbursement payment system. This system allows those who can only afford a small/token offer payment to make a single payment with Advice NI then negotiating with creditors to agree a monthly repayment.'

Anyone struggling with debt should get in touch with the Debt Action service, Freephone: 0800 917 460; text: Action to 81025 or web: www.debtaction-ni.net

CAB pay day loans national survey

Citizens Advice has called on people who have taken out pay day loans to take part in a national survey to monitor whether pay day lenders are sticking to their self-regulating charter. The survey is on the Adviceguide website at: www.adviceguide.org.uk/dialogue_payday_loan_survey_in_ni.htm. Participants will also be able to fill in template letters to inform the payday loan company of their situation and experience of taking out a payday loan. Citizens Advice will report initial findings from the survey in spring 2013.

The Citizens Advice service has seen a ten-fold increase in the proportion of clients receiving casework help with multiple debts which included a payday loan debt in the last four years. In the first quarter of 2009/10 only one per cent of CAB debt casework clients had at least one pay day loan and in the same quarter in 2010/11 this had risen to four per cent. Twelve months later, ten per cent had at least one payday loan.

A regional debt advice project has seen a 164 per cent increase in the proportion of clients receiving casework help with multiple debts which included a payday loan debt in the last six months of 2012, compared to the first half of the year. The Citizens Advice network of 28 offices helped clients deal with over £75 million of debt in 2012.

HELPING IN HARD TIMES

The impact of welfare reform on the advice sector

Citizens Advice Information and Policy Officer **Sian Fisher** explains how welfare reform is putting extra pressure on the advice sector and why supporting advice is a sound investment.



Welfare Reform will have an unprecedented impact on the advice and voluntary sector, with the Bill heralding the biggest change to the welfare

state since its inception.

With reform will come changing pressures and demands to the sector, at a time of funding and budget cuts. A reduction in wider public spending generally will impact on the most vulnerable members of our society, who could potentially be left with less support.

Specialist advice on new benefits

The advice sector provides a highly valued service, assisting people at times in their lives when they may be most in need.

The proposed reform will result in increased demand for specialist advice around benefits, housing and debt, as well as for tribunal representation. Advice providers will be required to cope with this extra demand despite diminishing budgets and resources.

Advisers will require new training in preparation for the introduction of the two new benefits, Universal Credit and Personal Independence Payment. Refresher welfare reform training will also be required, all of which has cost implications for advice providers.

Supporting clients through change

Clients have expressed anxiety about the changes that will be introduced as part of welfare reform.

Our bureaux have reported a large volume of clients who require advice and support during their transfer to Employment and Support Allowance, as well as those who wish to appeal the ESA decision. This demand will inevitably increase with migration from DLA to PIP, and the introduction of Universal Credit.

It is essential that the government continues to sufficiently fund front-line advice in order to help the most vulnerable to meet the challenges which such reforms will bring.

Appeals

Tribunal representatives and advisers provide a vital service to individuals. In 2011/12 the appeals service handled over 18,000 appeals, reflecting a seven per cent increase from the previous year.

Bureaux handled 2,458 appeals last year. For example, Fermanagh bureaux handled 370 tribunal appeals, with around 60 per cent of decisions being overturned.

An appellant with representation is more than twice as likely to be successful, but a lack of funding means that appellants often go unrepresented. Additional resources could allow advisers to intervene at an earlier stage, so that fewer appeals are necessary.

DLA to PIP

The transfer from DLA to PIP is causing similar concern. It is expected that this change will result in a large increase in demand for advice.

Claimants have already been receiving letters outlining the transition process for PIP, and many have sought advice due to uncertainty about how the changes will affect their benefit entitlement. There is a general feeling of fear amongst clients that welfare reform will result in cuts to their benefits.

Wider implications

Changes to entitlement also result in an increased need for advice on wider implications for housing, debt, health, and appeals. Following the introduction of ESA, Citizens Advice saw a jump in benefit related enquiries, with over 27,000 ESA issues recorded for 2011/12.

Changes brought about by welfare reform are already having an effect, as people become more aware of and concerned with what reform will mean for them.

Invest in advice

The need for advice is clear. With high quality advice will come overall savings, as debt and housing advice is considerably cheaper than bankruptcies and homelessness, as well as being significantly better for individuals and the wider society.

It is essential that advice agencies receive the support that is required to maintain high standards across the sector and safeguard the rights of our citizens.

SOCIAL SECURITY UPDATE



Personal Independence Payment explained

Patricia Carty, social security legal adviser at Law Centre (NI), explains arrangements for the new benefit which will come into force in Northern Ireland later this year.

In Northern Ireland, Disability Living Allowance is due to be replaced by Personal Independence Payment (PIP) for people of working age (sixteen to 64) from 10 June 2013.

This is the proposed date at the time of writing. However, this date will be changed as the Welfare Reform Bill is still passing through the Northern Ireland Assembly and PIP will only commence once that Bill is enacted and the corresponding Regulations passed.

Once PIP is introduced, it will no longer be possible for a person of working age to make a claim for Disability Living Allowance.

What is PIP?

PIP is a non means tested, non-taxable benefit. It can be paid to people in and out of work. It is designed to help towards extra costs arising out of ill-health and disability. It is based on how a person's condition affects her/his daily life and not the condition that s/he has.

There are two components of PIP – for daily living and for mobility. Each component can be paid at either a standard rate or at an enhanced rate.

The test for PIP will generally be more difficult to satisfy than the test for DLA. Generally, an award of standard rate PIP requires a score of 8 points and an enhanced rate requires a score of 12 points under the statutory test.

How will PIP differ from DLA?

A new statutory test has been designed to cover entitlement to PIP. Advisers and people affected should

take some time to read it and become familiar with it: www.legislation.gov.uk/ukdsi/2013/9780111532072/schedule/1. Some points to note are set out below.

- The Daily Living component of PIP does not have an equivalent to the lowest rate of the care component of DLA. Many people who received DLA on this basis may not qualify for PIP and will lose associated entitlement to a disability premium for means tested benefits.

- Under the PIP test fewer people may qualify for the higher rate of the mobility component and therefore for the Motability scheme. For example under the new test the relevant descriptors require consideration of whether a person can stand and move no more than 20 metres either aided or unaided.
- The new test also removes reference to day and night. People who qualified for middle rate care under DLA due to night time needs will now have to examine the test and see if they come within the redesigned scheme.
- People who qualified for DLA due to a need for supervision – for example people suffering from epilepsy – may struggle to score the points necessary to receive an award under PIP.

When is it coming in?

The Department has issued the timetable below:

PIP timetable	
June 2013	New claims will start in Northern Ireland. PIP will be introduced in selected areas of Great Britain from April 2013.
October 2013	Reassessment under the PIP scheme will start for existing DLA claimants who report changes of circumstances, or where a fixed term award is due to expire after February 2014
October 2015	Reassessment under the PIP scheme will begin for all DLA claimants of working age who have indefinite/lifetime awards. People will be selected on a random basis. A letter will be sent to DLA claimants explaining the reassessment process, advising them that their claims will end and how to make a claim for PIP. All existing claimants will have been contacted by October 2017.
Spring 2018	All working age DLA claimants will have been reassessed under the PIP scheme.

Weekly rates of PIP

It is possible to receive a payment for the Daily Living component and/or the Mobility component. The higher applicable rate under the Daily Living and Mobility components will apply.

Daily Living Component

Standard rate	£53
Enhanced rate	£79.15

Mobility Component

Standard rate	£21
Enhanced rate	£55.25

Basis rules of entitlement

To qualify for PIP a person must:

- be aged sixteen to 64 at the time of the claim;
- be assessed as satisfying the statutory test for the daily living or the mobility component (or both) during a three month retrospective and six month prospective qualifying period;
- pass residence and presence tests.

Aged sixteen to 64 at the time of claim

PIP is for people aged sixteen to 64. Once PIP is introduced, DLA will continue for those aged under sixteen and Attendance Allowance will continue to apply to those claiming for the first time aged 65 and over. If a person receives an award of PIP it will be possible for this to continue after 65. This is important as Attendance Allowance does not have a mobility component.

Statutory test for PIP

Eligibility for PIP is dependent on scoring points under a new statutory test, which has a similar structure to the Work Capability Assessment for ESA. The test is broken down into activities and descriptors, which have been given a points score. It is possible to score points under more than one activity. Points will only be awarded for one descriptor under



Patricia Carty training at Law Centre (NI). Photo: Catherine Couvert

each activity and the highest scoring descriptor will be awarded.

In Britain, the test is set out in Schedule 1 to the Social Security (Personal Independence Payment) Regulations 2013.

As set out above, it will be important for people affected to take some time to become familiar with this new test. There are twelve activities. These are:

1. Preparing food.
2. Taking nutrition.
3. Managing therapy or monitoring a health condition.
4. Washing and bathing.
5. Managing toilet needs or incontinence.
6. Dressing and undressing.
7. Communicating verbally.
8. Reading and understanding signs, symbols and words.
9. Engaging with other people face to face.
10. Making budgeting decisions.
11. Planning and following journeys (used in the test for the mobility component).
12. Moving around (used in the test for the mobility component).

In deciding whether a person will score points, consideration will be given to whether s/he can perform the task in the descriptor:

- safely;
- to an acceptable standard;
- repeatedly;
- in a reasonable period.

Aids and appliances

When the test is applied, the assessor will take into account the person's ability while wearing/using any aid or appliance which s/he normally wears or uses or which s/he could reasonably be expected to wear or use.

Variable conditions

Points will only be awarded under a descriptor if the person has the stated problem for more than 50 per cent of the qualifying period. PIP contains rules about the scoring of points where a person satisfies descriptors on a fluctuating basis.

If two or more descriptors are satisfied on over 50 per cent of the relevant days then the highest scoring descriptor will apply.

Significantly, where no descriptor is satisfied for more than 50 per cent of days but two or more descriptors

Continued on page 22

are satisfied for shorter periods which when added together amount to more than 50 per cent of the time, then the person will be awarded points for:

- the descriptor which is satisfied for the greater proportion of time; or
- if both are for the same amount of time, then the higher scoring descriptor.

Residence and presence tests

A person must:

- be present in Northern Ireland;
- be present in Northern Ireland for 104 out of the 156 weeks preceding the claim;
- be habitually resident in the Common Travel Area which is the United Kingdom, the Republic of Ireland, the Isle of Man or the Channel Islands;
- not come within definition of 'person subject to immigration control'.

This test is significantly more difficult to satisfy than the test for DLA prior to 2013. There are plans to amend the residence and presence tests for DLA, Attendance Allowance and Carers Allowance to bring them into line with PIP.

These residence and presence rules do not apply where a person is residing in the UK and relevant EU

Regulations apply and the person can demonstrate a genuine and sufficient link to the UK social security system.

Likewise, a person will continue to be able to export entitlement to PIP within the EU if the UK remains the 'competent state' under EU law and the person can demonstrate a genuine and sufficient link with the UK.

Claims and the assessment

Under current proposals, initial claims for PIP will be made by contacting the Social Security Agency by phone. Paper claim forms will not generally be used. There are plans to introduce online claims from Spring 2014.

The SSA will then send a 'Telling your story' form to the person to collect information about how the person's condition affects her/ his daily living and mobility. It will be very important that this is completed comprehensively. Advisers should consult the statutory test prior to the completion of the form as this will relate to the application of relevant descriptors. Relevant medical evidence should be submitted with the form or in any event as early in the claim's process as possible.

Most claimants will be asked to attend a face to face assessment with a healthcare professional. A private company, Capita, has been awarded the contract for the conduct of these assessments. The rules allow for a consultation to be carried out over

the phone, at assessment centres or at the person's home. Notification of appointments may be provided by email where this is agreed to, but the rules provide that a person must be given seven days notice of an appointment.

The Department will then decide the claim. Under current proposals, if a person is unhappy with the decision s/he will have to request a reconsideration before having a right to appeal the decision to an independent appeal tribunal.

Conclusion

The introduction of PIP is likely to prove a major challenge for people with disabilities who are seeking access to benefit and also for advisers and the SSA.

Law Centre (NI) has been running training courses on PIP. More sessions will be included in the 2013-2014 training programme. Advisers are encouraged to attend and to explore examples of how PIP will operate in practice.

Advisers should bear in mind that it is only possible to make a fresh claim for DLA until PIP is introduced. Individuals who have a possible entitlement to DLA should now be advised to claim without delay.

Further information

The regulations for Britain, including schedule 1 and 2, can be found on: www.legislation.gov.uk/ukxi/2013/377/made.

Further information on the introduction of PIP is available on www.dwp.gov.uk/pip and www.nidirect.gov.uk/personal-independence-payment.

Members of RightsNet can also read: www.rightsnet.org.uk/news/story/personal-independence-payment-and-related-disability-benefit-reform-regulat/.

Advice

Advisers with queries about PIP should contact the Law Centre's advice line Monday to Friday, 9.30am to 1pm, telephone 9024 4401 or 7126 2433.



Photo: Craftvision

Employment and Support Allowance

*Important changes have been made to the ESA scheme, with effect from 28 January 2013. This article by Law Centre (NI) social security legal adviser **Patricia Carty** covers the main amendments and the activities and descriptors affected.*

When does the amended scheme take effect?

The amendments apply to:

- claims for ESA made on or after 28 January 2013;
- claims for ESA made before 28 January 2013 where a determination on limited capability for work or work related activity is not made until after 28 January 2013;
- reassessments of existing claims for ESA after 28 January 2013;
- reassessments in the course of the migration process occurring after 28 January 2013.

Advisers should note that the amended scheme will not be applied in cases where a questionnaire had been issued to a claimant under the pre-28 January 2013 scheme. This transitional protection expires on 28 July 2013 in respect of any determination on or after that date.

Changes to assessment of limited capability for work

Regulation 19 is amended so that:

- claimants will be assessed as wearing any prosthesis with which they are fitted or that they are wearing or using any aid or appliance which they can normally or could reasonably be expected to wear or use;
- any limitation on capability for work under both physical disabilities must arise from a specific bodily disease or disablement or as a direct result of treatment for that disease or disablement by a registered medical practitioner; and
- any limitation under mental, cognitive and intellectual functional ability activities must arise from a specific mental illness or disablement or as a direct result of treatment for that disease or disablement by a registered medical practitioner

Regulation 20 is amended so that claimants who are suffering from cancer will be treated as having limited capability for work where:

- the claimant is receiving chemotherapy or radiotherapy; or
- the claimant is likely to receive either chemotherapy or radiotherapy after the date of the determination of limited capability for work; or
- the claimant is recovering from chemotherapy or radiotherapy; and
- the Department is satisfied that the person should be treated as having limited capability.

Regulation 25 – Hospital Inpatients is amended so that:

- it will only apply to a person who requires to stay in hospital for 24 hours or longer; and
- day of recovery is a day on which a person is recovering from treatment as a patient in a hospital or similar institution.

Regulation 29 – Exceptional Circumstances where a person can be treated as having limited capability for work is amended so that the definition of ‘substantial risk’ now excludes circumstances where the risk could be significantly reduced by reasonable adjustments being made to the claimant’s workplace or the claimant taking medication prescribed to manage the condition.

Changes to assessment of limited capability for work related activity

Regulation 4 of the Regulations makes similar amendments to the assessment of limited capability for work related activity.

Changes to Activities/Descriptors

Activity 1 – Mobilising is amended to read, *mobilising unaided by another person with or without a walking stick, manual wheelchair or other aid if such aid is normally, or could reasonably be, worn or used.*

Activity 2 – Standing and Sitting

Descriptors are amended to insert a provision making it clear that the person will only score if for the majority of time s/he cannot do either or parts (i) and (ii).

Activity 5(d) is amended to: *cannot single-handedly use a suitable keyboard or mouse.*

Activity 6 now reads: *making self understood through speaking, writing, typing, or other means which are normally or could reasonably be used, unaided by another person.*

Activity 7 now reads: *understanding communication by:*

- (a) *verbal means (such as hearing or lip reading) alone*
- (b) *non-verbal means (such as reading 16 point print or Braille) alone, or*
- (c) *a combination of (a) and (b)*

using any aid that is normally or could reasonably be used, unaided by another person

Activity 8 now reads: *navigation or maintaining safety, using a guide dog or other aid if either or both are normally, or could reasonably be used.*

Activity 9 is amended and now reads: *absence or loss of control whilst conscious leading to extensive evacuation of the bowel and/or bladder, other than enuresis (bed wetting) despite the wearing or use of any aids or adaptations which are normally or could reasonably be worn or used.*

Also **Descriptor 9(b)** has been amended and will only apply where the person has the risk of losing control for the majority of time.

Activity 15 – Getting around – Descriptor (a) is amended and now reads *Cannot get to any place outside the claimant’s home with which the claimant is familiar.*

Similar amendments are also made to the Schedule governing the Support group.

Conclusion

Where the amended provisions apply, advisers and people affected should be careful to use the amended scheme when providing advice and assistance on the operation of ESA.

GETTING A FAIR SHARE

To mark International Women's Day, the Equality Commission hosted a discussion on 6 March on issues impacting women's economic independence in Northern Ireland. **Libby Kinney**, director of communications and promotion in the Equality Commission for Northern Ireland, highlights some of the issues raised and the Commission's plans to tackle them in the year ahead.

On International Women's Day this year, the Equality Commission asked the question 'Are women getting a fair share?'

Are we getting a fair share of jobs, of career choices, of all of life's opportunities – everything that impacts on a woman's economic independence?

The Commission has fought long and hard for equality of opportunity between men and women. The discussion at Riddel Hall, Belfast, was lively and challenging. It helped deepen our understanding of the important issues and will help us as we develop the best approach to tackling them.

Achievements

There is no doubt that much has been achieved over the last 100 years. Today, females leaving school tend to be better qualified than males – 79 per cent leave with at least five good GCSEs compared to 68 per cent boys. 80 per cent of girls progress to further or higher education compared to 69 per cent of boys (2010/11). Higher numbers of women now feature in management positions, particularly in organisations which have taken the lead in adopting robust gender equality strategies.

We have seen some improvement in the representation of women in political life – just over one in six MLAs are now women, compared one in eight in the first Assembly

election. Almost one in four local councils now has a woman as chief executive.

This improving context increases the chances for a woman to be economically independent. When people do not have access to economic independence, they become vulnerable and with such vulnerability comes the potential for inequality.

Inequality alive and well

But the reality is that gender inequality, with all the impact that has on women's lives, is still alive and well today.

In the Commission's most recent equality awareness survey, *Do You Mean Me?*, we found that advancement for women was a big issue for more than two thirds (69 per cent) of the people – both men and women – who responded saying they would like to see more women in management positions. Almost two thirds (63 per cent) said they would like to see more women MLAs. So why do women still face, at every stage in their lives, obstacles that are not faced by men?

It remains a fact that women are more likely to be in lower paid, lower status and often less secure positions, with little potential for progression and provision for pensions. And we still have a situation where women are concentrated in part-time work – in 2012, 40 per cent of female employees worked part-time compared to ten per cent of male employees.

Workplace policies

Once in the workplace, flexible working policies and sex discrimination and equal pay legislation can provide a framework that potentially benefits women.

The Commission is concerned, however, that, in a recession, good employment policies that support gender equality may be seen as expendable. There is a danger that advances previously made in relation to equality for carers, flexible working and equal pay might be undermined. Such a regressive step could result in significant negative impact on women's economic independence into the longer term.

Childcare and family commitments

Frequently it is a lack of affordable childcare and family and home commitments that impacts on decisions about employment for women.

In our new report, *Childcare: Maximising the Economic Participation of Women*, it was found that almost half (46 per cent) of parents said that the cost of childcare had influenced the hours they worked – a statistic which rises to two-thirds in the case of mothers.



Michael Wardlow – Equality Commission for Northern Ireland: 'Women's inequality is not only an issue for women.' Photo: Equality Commission

Childcare costs in Northern Ireland appear to exceed those in other places – on average taking almost half (44 per cent) of incomes, compared to one third in the rest of the UK or just over one tenth across the EU.

More than a third of women of working age who are unavailable for work say that this is due to family and home commitments. The comparable figure among men was fewer than one in 20.

As the report indicates, we will never realise the full and equal participation of women in our economy unless we ensure that adequate and affordable child care, flexible work arrangements and paid parental leave are available to all.

And the implications are not just for the individual women concerned but for society as a whole. Ensuring that women are economically active, at all levels and in all sectors, is not simply a gender equality issue. It is a broader economic issue that has huge consequences for our future prosperity and growth.

Pension and welfare reform

Women's participation in paid work is also critical in influencing their future pension provision. Women on average receive about two thirds (68 per cent) of male pension income and are therefore at a greater risk of poverty in older age.

The Commission is concerned about the impact of government policy in relation to pension reform and welfare reform. We are working hard to try and ensure that equality for women is a visible and central concern in all areas of public policy development and implementation.

The role of the Commission

We are committed to working with and listening to the wide range of people who are concerned about, and active in promoting women's rights and interests.

We hope that our Report on Childcare will play a useful and positive role in development of a Childcare Strategy for Northern Ireland.

We are also preparing a Shadow Report to the Committee on the Convention on the Elimination of all forms of Discrimination against Women – CEDAW. This international framework scrutinises the position

of women across the world and is a mechanism for holding governments to account for their actions in addressing gender inequalities and discrimination against women. We are also working with the wider women's sector on their joint report. This is a useful framework for benchmarking progress and focusing attention on gaps and what still needs to be done to improve things for women.

Website

Part of the legacy of our International Women's Day event is an enhanced area of our website, *Getting a fair share?* We have video testimonials from six women from different backgrounds, locations and ages on the challenges they have faced in securing economic independence. These are complemented with speeches, photographs and other materials from the day's discussion in Riddel Hall.

Women's rights need full recognition

After almost 40 years of sex discrimination legislation and fifteen years



Jennifer McCann, Junior Minister, OFMDFM: 'When people review our track record on gender equality, it gives us a basis for doing better. It is motivating and challenging. It forces us to improve our performance. And that can only be a good thing.' Photo: Equality Commission

of Section 75, it is perhaps surprising that the rights of women to a fair share at work, and a fair share financially, are still not fully recognised. Until they are, the Commission will keep working to attain equality between men and women.

Northern Ireland Ombudsman

Planning service

Planning permission for apartments

This complaint was against the Planning Service (PS). The main issues concerned the granting of planning permission for the demolition of two pairs of semi-detached properties and the construction of one block of nine apartments and one pair of semi-detached houses at Malone Road, Belfast.

The complainant alleged that, in processing the planning application, PS had breached specific policy / guidance and had failed to consider his objections.

The Ombudsman's investigation revealed that the application site, which was the subject of the complaint, was separated from the complainant's property by another site at Malone Road, which had previously been granted planning permission for the erection of eighteen apartments. The distance of the develop-

ment, which was the subject of the complaint, from the complainant's property was a significant factor in the Ombudsman's consideration of the complaint.

In the circumstances, the Ombudsman did not conclude that any major adverse impact, such as overlooking, would result. He concluded that the complainant's objections were recorded, and those relevant to the consideration process were considered by the PS prior to the granting of planning permission. Also, the Ombudsman found no evidence of PS having breached relevant policy / guidance in the processing of the application in question.

Overall, the Ombudsman did not uphold the main elements of the complaint and found no reason to challenge the final decision to grant planning permission for the development.

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or not my advice has been sought on the Welfare Reform Bill.

The Living Law initiative and its aim of opening up the law to a wider range of people has been an important part of your tenure. Can you tell us about the initiative and your personal commitment to it?

The Living Law project has three elements.

The first is an enrichment programme for sixth forms of non-grammar schools. Students are introduced to a number of key ideas and concepts, are brought into contact with aspects of legal practice and are encouraged to take part in discussions, an essay competition, and mock trial exercises. Work experience is also offered. I hope to increase aspiration and confidence among students who might not have the contacts that some students who attend grammar schools can be expected to enjoy. Five students who attended during the first year of the programme are now studying law at university.

The second element is engagement with community groups on issues of concern to them with a view of rendering the law more accessible. I am concerned that as the complexity of law shows no sign of diminishing, citizens do not become more disconnected from the law which is made for them and with which they are required to comply. I consider that there is more work to be done to increase access to legal understanding and I would like to expand my own activity in this area.

The third element is a programme of colloquia and seminars bringing together a range of participants to explore a number of legal topics at a very high level, ranging from criminal justice to electoral law to the interplay between law and justice explored through the figure of *Antigone*.

Law is an endlessly fascinating discipline. In all three of these elements I hope that I can communicate something of my own enthusiasm for law and its shaping force in our lives, yet I am often struck by what appears to be an increasing narrowness in the

social pool from which new lawyers are drawn.

Law has never been a profession which in any society has attracted a majority of its members from families of modest income but I am worried that the daughters and sons of parents on modest incomes are probably facing greater obstacles to becoming lawyers now than at any time during the last 30 years.

I can't furnish a remedy for this but I will keep drawing attention to it.

What do you think about the current debate in Britain about the future of the Human Rights Act and the development or otherwise of a Bill of Rights in both Northern Ireland and Britain?

To my mind there are three necessities for a healthy future for human rights in the United Kingdom.

We need, firstly, to identify the doctrinal basis of human rights, secondly, a recovery of a sense of constitutional history together with regional and national traditions, and, thirdly the setting of a clear distinction between the role that human rights litigation can play and the role for Parliament and the Assembly.

There is a distinction to be made. On the one hand, there is the text of the European Convention on Human Rights as originally adopted with which no sane person, I think, could quibble. On the other hand very many people will take issue with the interpretations placed on this text from time to time by the European Court of Human Rights. There is a tendency for commentators to approve or disapprove of Strasbourg judgments according to whether or not they embody the commentators' views on particular questions. A Strasbourg decision to my mind achieves real value when it succeeds in convincing people who don't necessarily welcome the outcome that it is a faithful interpretation of the Convention.

There is, in my opinion, no effective substitute for a healthy national political culture and issues of social

and economic importance should be decided in ways that are responsive to democratic accountability.

You have been in the public eye on a number of occasions, particularly on the issue of the law and abortion and the taking of contempt proceedings against the published comments of Peter Hain against the judiciary. How do you feel about becoming the focus of such attention?

In this position a certain amount of public attention is not only inevitable, it can – if the issue giving rise to the attention is well reported – serve to increase public interest in, and knowledge of, some important legal issues.

It is also inevitable that there will be a variety of views about the positions which I have taken. I am relaxed about all of that but would naturally prefer the views to be founded on accurate information!

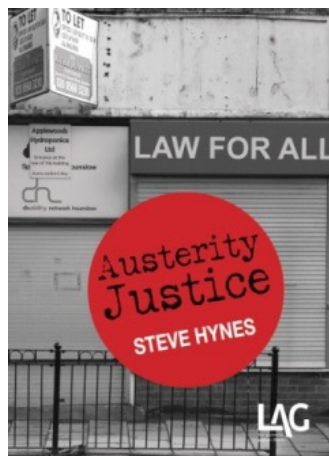
Having been in post for almost three years, are there any reforms you think should be made to the role and responsibilities of the Office of the Attorney General?

I am tempted to echo the Chinese sage of urban legend and say that it is too early to say but let me simply suggest that two questions that will continue to be reflected on are (1) whether the Attorney General for Northern Ireland should remain, as at present, statutorily independent and (2) whether or not the role of the Attorney with respect to the Public Prosecution Service should change.

REVIEWS

Austerity Justice

By Steve Hynes. Published by Legal Action Group 2012. Price £15.00.



Austerity Justice charts the history of legal aid since its introduction in England and Wales in 1949. In particular, it charts the most recent history culminating with the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) which will lead to significant cuts in the scope of legal aid from April 2013.

Steve Hynes argues that legal aid has moved from a safety net legal service as part of the welfare state to a rump scheme to cover people accused of crime and civil cases for the very poor, covering largely child protection, human rights cases and residual emergency legal support. The book notes the move from a scheme outside of political control to one in which politicians have taken a much more central role under both Labour and the coalition government.

The battle to oppose the LASPO Bill and its cut in the budget of £410 million is set out in detail, including how close the government came to being defeated over a number of amendments.

Practical and forward thinking, the book sets out recommendations for the future. These include the need to preserve independence in legal aid decision-making; a review of the impact of the cuts; the need to end the postcode lottery and advice gaps in England and Wales; the need

LIBRARY NEWS

A selection of new publications added to the shelves of the Law Centre's library January – March 2013

Books/reports

Analysis of current responses to human trafficking in Northern Ireland (NICEM Briefing Paper) by Professor Tom Obokata. NICEM, 2012

Bringing a case to the European Court of Human Rights: a practical guide to admissibility criteria. Council of Europe 2012.

Immigration Law Handbook by Margaret Phelan. Oxford U.P. Eighth edition, 2013.

The impact of tax and benefit reforms to be introduced between 2010–11 and 2014–15 in Northern Ireland, by James Browne. Institute of Fiscal Studies, 2012.

Mental health and human rights: vision, praxis and courage, by Michael Dudley and others. Oxford University Press. 2013.

Poverty and ethnicity in Northern Ireland: an evidence review. Joseph Rowntree Foundation, January 2013.

Working with migrant children: community care law for immigration lawyers, by Adam Hundt and Zubier Yazdani. ILPA, 2012.

Journal articles

Personal Independence Payment: overview of the benefit. Adviser January/February 2013.

Poverty, social security and stigma . Poverty (144) Spring, 2013

The right reason: Michael Reed looks at pitfalls in establishing reasons for unfair dismissal. Adviser. January/February 2013.

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to move to a 'polluter pays' principle so that legal aid is compensated for the costs of public policies created elsewhere; and the creation of a Minister for access to justice.

As director of LAG and former director of the Law Centre Federation, Steve Hynes knows the area of legal services and legal aid and his analysis is sharp and well written.

In Northern Ireland, our access to justice review has adopted a different approach, avoiding large scale reductions in scope for legal aid. Instead, savings are being sought through for example, more fixed fee arrange-

ments and reduction of the provision of senior and junior counsel.

We should not be complacent: Plan B, if savings are not realised, does involve an England and Wales type approach. This book is a timely reminder of what that might look like.

It also coincides with the 40th anniversary of Legal Action – an organisation with an honourable tradition which has longed punched above its weight.

Les Allamby, Director, Law Centre (NI)

An introduction to Universal Credit

This free two day training course will run twice: firstly on **16 and 23 May** and then again on **30 May and 6 June 2013**.

This two day course is being run as part of the Belfast Integration and Participation Project which is funded by Belfast City Council as part of Peace III Programme for Northern Ireland and the Border Region 2007-13. BIPP is a partnership between BCC, GEMS NI, Law Centre and South Belfast Roundtable.

Advisers can reserve a place by contacting: patricia.carty@lawcentreni.org or margaret.reid@lawcentreni.org

Training at Law Centre (NI)

Our new training programme will be published in April. For details visit the training section of our website:

www.lawcentreni.org/training/courses or contact: elaine.mccorriston@lawcentreniwest.org

School of Law, University of Ulster, invites applications to this innovative postgraduate programme

LLM in Clinical Legal Education (CLE) commencing September 2013

Available on a full-time or part-time basis

Semester 1 - Jordanstown campus; Semesters 2 and 3 - Belfast campus

This course is aimed at graduates with a second class honours degree (or better) in Law or equivalent. Exceptionally, individuals with significant experience may also be considered. The semester 1 modules will be delivered on the Jordanstown campus while the content of semesters 2 and 3 will be delivered on the Belfast campus. The programme is available on a part-time or full-time basis.

This unique programme allows students to represent social security appellants and employment law claimants in real-life tribunal cases, whilst on placement or in the newly-created 'Ulster Law Clinic'. Students will develop and deepen key practical and legal skills whilst advising and advocating on behalf of appellants/claimants.

Students will also be responsible, under supervision of Ulster Law Clinic staff, for developing and managing the Ulster Law Clinic at the Belfast Campus as part of the programme.

The function of the course is to supplement existing legal provision by embracing the challenge of 'unmet legal need'. The programme also challenges students to reflect on the availability and delivery of legal services and how law may be harnessed in public interest strategies such as 'Tribunal Representation', 'Alternative Dispute Resolution' and 'Litigating in the Public Interest'.

For further information on the LLM Clinical Legal Education, please contact Ciaran White (Course Director and Ulster Law Clinic Director) at:

Email: lawclinic@ulster.ac.uk **Web:** www.ulster.ac.uk/lawclinic

Twitter: <https://twitter.com/UlsterLawClinic>

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Training and conference rooms for hire



The Law Centre's training and conference room seats 40 people and can be hired at the rates listed below.

An additional meeting room, seating ten people, can be booked subject to availability, at rates to be negotiated.

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£60 (half day)
£120 (full day)

Non-members

£70 (half day)
£140 (full day)

These rates include the hire of the room and use of equipment, which must be pre-booked and is subject to availability.

Catering also available.

For more information or to book: contact Ann Cartwright on: 028 9024 4401 or email: ann.cartwright@lawcentreni.org

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